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January 17, 2020

Seema Verma, MPH
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attn: CMS-9915-P
P.O. Box 8010
Baltimore, MD 21244

RE: Transparency in Coverage Proposed Rule (CMS-9915-P)

Dear Administrator Verma:

On behalf of the American Speech-Language-Hearing Association, I write to offer comments on the Transparency in Coverage proposed rule.

The American Speech-Language-Hearing Association (ASHA) is the national professional, scientific, and credentialing association for 204,000 members and affiliates who are audiologists; speech-language pathologists; speech, language, and hearing scientists; audiology and speech-language pathology support personnel; and students.

ASHA appreciates the Centers for Medicare & Medicaid Services' (CMS's) efforts toward improving health care transparency across settings and payers. ASHA supports: 1) improving consumers' access to meaningful information on the price of their care, and; 2) protecting consumers from unexpected financial exposure. However, many of the proposals in the Transparency in Coverage proposed rule, while well-intended, may not adequately address concerns such as reducing surprises in relation to consumers' out-of-pocket (OOP) costs and providing relevant price and benefit information to enable consumers to make cost-conscious decisions.

This letter includes ASHA's comments on the following topics discussed in the Transparency in Coverage proposed rule:

- Out-of-Network Allowed Amount and Disclosure Notice
- First Delivery Method: Internet-Based Self-Service Tool
- Public Disclosure of Negotiated Rates and Historical Out-of-Network Allowed Amounts

Out-of-Network Allowed Amount and Disclosure Notice

CMS proposes to require a health plan or issuer to disclose an estimate of cost-sharing liability for a beneficiary or enrollee for an out-of-network (OON) item or service. In addition, CMS proposes that a disclosure notice would include a statement that OON providers may balance bill beneficiaries or enrollees. ASHA appreciates the added transparency regarding balance billing; however, the proposed rule does not address surprise medical bills. While states have taken steps to protect patients from surprise medical bills, federal action is necessary to fill in the gaps.^{1, 2} In the interim, ASHA recommends that CMS adopt requirements similar to Section 7 (Requirements for Participating Facilities with Non-Participating Facility-Based Providers) of

the National Association of Insurance Commissioners (NAIC) Health Benefit Plan Network Access and Adequacy Model Act. The NAIC Network Adequacy Model Act offers financial protections to patients by limiting their OOP costs in emergency and non-emergency situations via a mediation process between the payer and provider.³ In non-emergency situations, the patient's costs may be reduced or eliminated based on the outcome of the mediation—as opposed to emergency situations—where the patient is guaranteed protection from the bill. Health care consumers require action by Congress and/or federal oversight agencies to address this significant problem that can have devastating financial consequences on individuals and families.

First Delivery Method: Internet-Based Self-Service Tool

In the proposed rule, health plans and issuers would be required to make available an internet-based self-service tool that allows users to search for cost-sharing information by a Current Procedural Terminology (CPT) billing code. If finalized, users would be able to input the name of a participating provider along with a CPT code or descriptive term (e.g., “hearing exam”). ASHA supports allowing users to search for a covered item or service by descriptive term. However, ASHA believes that including CPT billing codes may not be meaningful or actionable information for the user. CPT billing codes are more likely to be used by the participating provider when submitting a claim for payment to a health plan or issuer. ASHA maintains that most users would not seek this information. If participating providers start providing CPT billing codes to patients without any context, it could cause more confusion depending on the user's level of understanding health care payments.

Public Disclosure of Negotiated Rates and Historical Out-of-Network Allowed Amounts

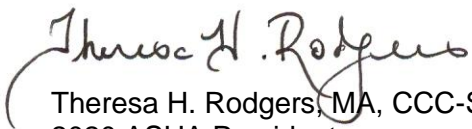
CMS proposes to require health plans and issuers to make publicly available negotiated rates for all providers in their network so that uninsured consumers can use this information to find more affordable health care or providers offering the lowest price for an item or service. ASHA recommends that negotiated rates be made available only to a beneficiary or enrollee in a health plan or issuer but not to the general public. Requiring all health plans and issuers to publicly disclose provider negotiated rates could adversely affect access to health care services. Negotiated rates are proprietary and are determined after careful contract negotiations between the provider and health plan or issuer. A provider may receive a higher negotiated rate from a plan or issuer because of his or her quality outcomes, expertise, or participation in an alternative payment model arrangement. ASHA is concerned that health plans or issuers that historically paid more for an item or service could reduce their reimbursement causing a “race to the bottom”. If negotiated rates fall too low, higher quality and/or more experienced providers may discontinue participating in a health plan's or issuer's network creating narrow or inadequate networks for beneficiaries or enrollees.

The current Summary of Benefits and Coverage (SBC) document provides transparent, consistent, and comparable information about health plan benefits and coverage to 180 million Americans. Individuals receive the SBC when shopping for or enrolling in coverage at each new plan year and within seven business days of requesting a copy. The Uniform Glossary of Terms (Uniform Glossary) helps consumers understand commonly used terms in health insurance.⁴ Together, the SBC and Uniform Glossary documents can improve consumers' understanding of pricing information by explaining—in plain language—a health plan's insurance coverage and benefit offerings. In lieu of making negotiated rates publicly available, ASHA encourages CMS to explore how health plans, issuers, and the agency can make the information contained in the SBC and Uniform Glossary available to uninsured consumers as well.

Finally, the proposed rule states that "...many speech therapists and pathologists do not accept insurance because of the limitations plans and issuers place on coverage for their services". ASHA would like to clarify that the majority of speech-language pathologists *do* accept private insurance.⁵ Unfortunately, private insurance often limits coverage of speech therapy to a condition, illness, or injury; thereby, limiting a beneficiary's or enrollee's access to these services. ASHA supports comprehensive coverage of habilitation and rehabilitation services and created the document, *Joint Habilitation/Rehabilitation Benefit Coverage Statement: Guide to Assessing Adequacy of Benefits*, to serve as a guide when determining whether an insurance product provides adequate coverage.⁶

ASHA appreciates the opportunity to provide comments on this proposed rule. If you or your staff have any questions, please contact Daneen G. Sekoni, MHSA, ASHA's director of health care policy, health care reform, at dsekoni@asha.org.

Sincerely,



Theresa H. Rodgers, MA, CCC-SLP
2020 ASHA President

¹ The Commonwealth Fund. (2019). *State Balance Billing Protections*. Retrieved from https://www.commonwealthfund.org/sites/default/files/2019-09/Hoadley_State_Balance-billing_Protections_091619.pdf.

² The Heritage Foundation. (2019). *3 Steps to Take the Surprise Out of Surprise Medical Bills*. Retrieved from <https://www.heritage.org/health-care-reform/commentary/3-steps-take-the-surprise-out-surprise-medical-bills>

³ National Association of Insurance Commissioners. (2015). *Health Benefit Plan Network Access and Adequacy Model Act*. Retrieved from <https://www.naic.org/store/free/MDL-74.pdf>.

⁴ U.S. Centers for Medicare & Medicaid. (n.d.). *Glossary of Health Coverage and Medical Terms*. Retrieved from <https://www.healthcare.gov/sbc-glossary/>.

⁵ American Speech-Language-Hearing Association. (n.d.). *Private Health Plans Coverage of Services: Speech-Language Pathology*. Retrieved from <https://www.asha.org/practice/reimbursement/private-plans/PrivatePlansCoverageSLP/>.

⁶ American Speech-Language-Hearing Association. (2019). *Joint Habilitation/Rehabilitation Benefit Coverage Statement: Guide to Assessing of Benefits*. Retrieved from <https://www.asha.org/uploadedFiles/Model-Benefit-Design-Statement.pdf>.